



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

1100 Commerce Street

Dallas, Texas 75242

501.03-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: September 16, 2010

Release Number: 20110126

Release Date: 1/7/11

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:

Voice:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Internal Revenue Code Section 6001 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

You failed to meet the records keeping and reporting requirements under IRC 6001 and 6033.

You no longer meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. Those returns should be filed with the appropriate Service Center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit of declaratory judgment in the United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

You also have the right to contact the office of the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate office located nearest you by calling _____ or by writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can, however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

If you have any questions in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE: EO Examinations
1100 Commerce Street
Dallas, TX 75242

August 14, 2009

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/ 31/20XX	

LEGEND

ORG - Organization name XX - Date State - state President - president

Issue:

Whether ORG continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

The ORG was granted exemption under IRC § 501(c)(3) in September of 20XX. President, the President of the organization was contacted to schedule an examination for the 20XX period. During the initial phone conversation the taxpayer stated the organization had been dissolved and he doesn't have any records that can be examined. President had some family problems and didn't have enough time to continue running the organization. He also said that the other officers did not want to help him therefore he decided to dissolve the ORG. The organizations status was still active according the Internal Revenue Service's records. An initial return was filed in 20XX, and the 20XX return was delinquent when the case was assigned. The taxpayer never filed a final return or articles of dissolution with the Internal Revenue Service. According to the records with the State Corporation Commission, "this organization is not in good standing" and has been administratively dissolved by the state. The taxpayer was informed that after the organization ceases operations a final return is required to be filed by the 15th day of the 5th month after the dissolution. The procedures to terminate the organization were explained to the taxpayer, and he agreed to send in everything that was needed. A document request was sent to the taxpayer requesting the documents required to complete the termination. A blank return, Schedule N, and Instructions were sent to the taxpayer. Several follow up phone calls and letters were sent to the taxpayer, but he never responded. The taxpayer's brother answered the phone each time and a message was left for President to call me back. A 30 day letter was sent by certified mail to the organization and the President signed for it. The 30 days expired and no response was ever received from the organization.

Law:

IRC 6001 states that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC 6033(a)(1) states that every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

IRC 6043(b) states every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under section 501(a) shall file

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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such return and other information with respect to such liquidation, dissolution, termination, or substantial contraction as the Secretary shall by forms or regulations prescribe.

6043(b)(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000.

6043(b)(2) the Secretary may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in section 401(a), where the employer who established such organization files such a return.

IRC 6652(c)(2)(A) States that in the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

Treas. Reg. § 1.6033-2(1) (2) provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, Chapter 1 of subtitle A of the Code, IRC § 6033, and Chapter 42 of subtitle D of the Code.

Treas. Reg. §1.6001-1(c) States in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

IRC § 6033. Treas. Reg. §1.6001-1(c) and Treas. Reg. §1.6033-2(a) (1) and (i) (2) require any organization exempt from tax under IRC §501(a), to supply the Service with such information as is required by the revenue procedures and the instructions for Form 990, Return of Organization Exempt From Income Tax, and Schedules thereto and to keep such books and records as are necessary to substantiate such information. Failure to maintain proper books and records and make them available to the examiner may result in revocation of an exempt organization's exempt status because the organization is not observing the conditions required for such status.

Revenue Ruling 59-95, 1959-1 C.B. 627, although drafted prior to enactment of IRC §6652, has never been withdrawn and can be used to support revocation, where the organization will not supply the information necessary to enable the Service to make a determination as to whether there have been any substantial changes in the organization's character, purpose, or methods of operation, and there is a substantial doubt that the organization should continue to be exempt.

Taxpayer's Position:

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The taxpayer's position is unknown because no response was received after the revised document request was sent out requesting the final return and dissolution documents. The taxpayer stopped responding to the agent's messages and letters sent to him after this document request was sent. A 30-day letter was sent to the organization by certified mail, and the President signed to accept it. A closing conference could not be offered.

Government's Position:

Based on the facts of the examination this organization has dissolved, but none of the required documents have been filed. The Director of the organization did not keep the books and records which needed to be reviewed to verify the organization operated for an exempt purpose. No records were provided to verify the organization was dissolved correctly and that any remaining assets were distributed according to the dissolution clause in the bylaws. As stated earlier failure to maintain proper books and records and make them available to the examiner may result in revocation of an exempt organization's exempt status because the organization is not observing the conditions required for such status. See Revenue Ruling 59-95, 1959-1 C.B. 627. The books and records shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents may become material in the administration of any internal revenue law. See Treas. Reg. §1.6001-1(c).

Conclusion:

It is the Internal Revenue Service's position that the organization failed to meet the reporting requirements under IRC § 6001 and § 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Accordingly the organizations exempt status is revoked effective January 1, 20XX.

Form 1120 returns should be filed for the tax periods ending on or after January 1, 20XX.